

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

J. CARLOS FERGUSON,
Plaintiff.

v.

ROCKWELL HOPP,
Defendant.

No. C 06-1619 SBA (WDB)

INTERIM ORDER PRECEDING
FURTHER DISCOVERY STATUS
CONFERENCE

At a discovery status conference on August 30, 2006, Mr. Robert Gold, counsel for Defendant, presented to the Court a copy of a letter sent from Mr. J. Kevin Snyder, Esq., at Dykema Gossett in Los Angeles, to Plaintiff's counsel, Mr. Aaron Schur. This letter informed Mr. Schur that Mr. Snyder had been retained to represent Defendant and would substitute in as counsel to replace Mr. Gold. As such, in its Order Following Discovery Status Conference filed on August 31, 2006, the Court ordered that, should Mr. Snyder wish to represent Defendant, he must file a substitution of counsel by no later than September 8, 2006.

As of September 11, 2006, no substitution has been filed, and the court independently confirmed with a telephone call to Mr. Snyder that he will not be substituting into the case. Mr. Gold has not withdrawn and, thus, remains counsel of record. On September 5, 2006, however, Mr. Gold filed a Notice of Unavailability covering September 9, 2006 through September 22, 2006, and October 16, 2006 through November 6, 2006, a period that includes the date of an upcoming status conference set for September 15, 2006. Ms. Joy Chen, an

1 employee in Mr. Gold's law office, confirmed by telephone that Mr. Gold will not be
2 available to attend the upcoming conference. At this time, therefore, the Court **VACATES**
3 **the Status Conference** set for Friday, September 15, 2006 and enters the following interim
4 **ORDERS** as to **Defendant Mr. Rockwell Hopp and counsel Mr. Robert Gold**:

5 1. Order as to Defendant Mr. Rockwell Hopp: As the sole defendant in this
6 action, Mr. Hopp is responsible for obtaining representation of counsel or for acting as his
7 own representative. In either case, it is imperative that this representative (either counsel
8 or Mr. Hopp, should he choose to represent himself), be available on reasonable notice for
9 the reasonable demands that preparing this action for trial will entail. Accordingly, **by no**
10 **later than Friday, September 22, 2006**, Mr. Hopp must file a written notice with the Court
11 with the name of his legal representative or, alternatively, a statement that he desires to
12 represent himself. If the designated representative is someone other than Mr. Gold or Mr.
13 Hopp, the notice also must include the address and all relevant contact information for new
14 counsel. New counsel must promptly file a proper substitution.

15 2. Order as to counsel Mr. Robert Gold: Because Mr. Gold has not withdrawn
16 as counsel for Defendant, he remains as counsel of record. Therefore, **by no later than**
17 **Friday, September 22, 2006**, Mr. Gold must file either (1) a formal notice of withdrawal,
18 if he and Mr. Hopp agree that Mr. Gold should not remain as counsel of record; or (2) a
19 written statement that Mr. Gold will continue to represent Defendant. If Mr. Gold remains
20 in the action, he must meet his responsibilities as counsel. These responsibilities include
21 being available to meet the reasonably foreseeable demands associated with the case and, in
22 particular, being available in the very near future for the deposition of Mr. Hopp. It is
23 presumptively unacceptable for counsel to be unavailable for long periods of time without
24 explanation. Should Mr. Gold fail to comply with this Order, he risks imposition of
25 sanctions and proceedings for contempt of court.

IT IS SO ORDERED.

/s/ *Wayne D. Brazil*

WAYNE D. BRAZIL
United States Magistrate Judge

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